IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

WEDNESDAY, THE 11TH JULY 2007 / 20TH ASHADHA 1929

WP(C).No. 9299 of 2006(F)

PETITIONER:

PAYYAVOOR CRUSHERS,
P.O. PAYYAVOOR, KANNUR DISTRICT,REPRESENTED BY ITS MANAGING PARTNER, K.U. JOSEPH.

BY ADV. SRI.R.RAMADAS

RESPONDENTS:
---

1. THE SECRETARY TO GOVERNMENT,
INDUSTRIES DEPARTMENT, THIRUVANANTHAPURAM.

2. THE GENERAL MANAGER,
DISTRICT INDUSTRIES CENTRE, KANNUR.

3. THE DEPUTY TAHSILDAR,
REVENUE RECOVERY, TALIPARAMBA.

BY SR.GOVERNMENT PLEADER SRI.M.R.SABU

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 11/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

P1: TRUE COPY OF THE NOTICE DT.21.6.2005 ISSUED BY R2 TO THE PETITIONER.

P2: TRUE COPY OF THE R.R. NOTICE DT.20.1.2006 ISSUED BY R3.

P3: TRUE COPY OF THE REPLY DT.16.2.2006 BEFORE RESPONDENTS 1 AND 2 BY THE PETITIONER.

TRUE COPY

P.A. TO JUDGE

C.N.RAMACHANDRAN NAIR, J.

.....

W.P.(C) No.9299 of 2006

.....

Dated this the 11th day of July, 2007.

JUDGMENT

Even though petitioner is challenging recovery proceedings for recovery of margin money loan with interest, petitioner has under court orders remitted Rs.1 lakh being the loan amount and another Rs.1,06,375/- towards interest. Government Pleader submitted that balance amount of around Rs.40,000/- is due from the petitioner. Petitioner has therefore limited prayer in the W.P. to waiver of penal interest and collection charges. Business is also stated to be closed. Since petitioner has paid entire loan amount and more than equal amount towards interest and since industry is closed, I feel no penal interest should be recovered from the petitioner. Balance shown, though includes loan amount, is on account of adjustment of payments already made towards interest and penal interest. In other words, balance due is essentially interest for default i.e. penal interest. In the circumstances, in view of the payments made as above, I direct the respondents to waive penal interest and not to proceed for further recovery. Similarly, collection charges also cannot be recovered from petitioner as payments are made voluntarily. W.P. is allowed to the above extent.

C.N.RAMACHANDRAN NAIR
Judge

pms